

ORDER NO. 3224

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Acting Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Tony Hammond

Competitive Product Prices
Global Expedited Package Services 3 (MC2010-28)
Negotiated Service Agreement

Docket No. CP2015-143

ORDER APPROVING SECOND MODIFICATION TO
GLOBAL EXPEDITED PACKAGE SERVICES 3
NEGOTIATED SERVICE AGREEMENT

(Issued April 8, 2016)

I. INTRODUCTION

The Postal Service seeks to modify a Global Expedited Package Services 3 negotiated service agreement.¹ For the reasons discussed below, the Commission approves the Modification.

¹ Notice of the United States Postal Service of Filing Modification Two to Global Expedited Package Services 3 Negotiated Service Agreement, March 30, 2016 (Notice). The modification is an attachment to the Notice (Modification).

In Order No. 2745, the Commission approved the Global Expedited Package Services 3 negotiated service agreement (Existing Agreement).² On March 30, 2016, the Postal Service filed notice that it has agreed to the Modification to the Existing Agreement. On March 31, 2016, the Commission issued an order reopening this docket to consider the Modification, appointing a Public Representative, and providing interested persons with an opportunity to comment.³

The Postal Service intends for the Modification to become effective on April 15, 2016. Notice at 1. The Postal Service filed supporting financial documentation and a certified statement, as required by 39 C.F.R. § 3015.5. *Id.* The Postal Service asserts that the Modification will not impair the ability of the contract to comply with 39 U.S.C. § 3633. *Id.* Attachment 2 at 1.

II. COMMENTS

Comments were filed by the Public Representative.⁴ No other person submitted comments. The Public Representative reviewed the Modification, the Existing Agreement, and the financial model filed under seal. PR Comments at 2. Based on that review, he concludes that the Existing Agreement, as modified, should continue to generate sufficient revenue to cover costs. *Id.*

² See Order Approving Additional Global Expedited Package Services 3 Negotiated Service Agreement, October 7, 2015 (Order No. 2745). The contract was later modified. See Order Approving Modification to Global Expedited Package Services 3 Negotiated Service Agreement, January 20, 2016 (Order No. 3040).

³ Order No. 3204, Notice and Order Concerning Modification to a Global Expedited Package Services 3 Negotiated Service Agreement, March 31, 2016.

⁴ Public Representative Comments on Postal Service Notice Concerning Modification to Global Expedited Package Services 3 Negotiated Service Agreement, April 7, 2016 (PR Comments). The Public Representative also filed a notice of errata to correct a typographical error in the original PR Comments. See Public Representative Notice of Errata to Public Representative Comments Concerning Modification to Global Expedited Package Services 3 Negotiated Service Agreement, April 7, 2016.

III. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the accompanying materials filed under seal, and the comments filed by the Public Representative.

Cost considerations. The Commission reviews competitive product prices to ensure that each product covers its attributable costs, does not cause market dominant products to subsidize competitive products, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3015.5 and 3015.7. As long as the revenue generated by the product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, if a product covers its attributable costs, it is likely to comply with 39 U.S.C. § 3633(a).

The Modification allows the customer to use Priority Mail Express International service, revises the minimum commitment, and amends Annex 1 of the contract. Notice at 1.

Based on a review of the record, the Commission finds that the Existing Agreement, as modified, should cover its attributable costs. Consequently, the Commission finds that the Modification should allow the Global Expedited Package Services 3 product to continue to comply with 39 U.S.C. § 3633(a)(2). For this reason, the Commission finds that the Modification should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, it finds the Modification is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). Accordingly, a preliminary review of the Modification indicates it is consistent with section 3633(a). The Commission will review the cost coverage of the Existing Agreement, as modified, the cost coverage of the Global Expedited Package Services 3 product, and the contribution of competitive products as a whole to the Postal Service's institutional costs in the Commission's

Annual Compliance Determination to ensure that they continue to comply with 39 U.S.C. § 3633(a).

Other considerations. The Postal Service states that the Modification shall become effective on April 15, 2016. *Id.* The Existing Agreement, as modified, is set to expire October 31, 2016, unless terminated sooner.⁵

If the Existing Agreement, as modified, is terminated prior to the scheduled expiration date, the Postal Service shall promptly notify the Commission.

In conclusion, the Commission approves the Existing Agreement, as modified.

IV. ORDERING PARAGRAPHS

It is ordered:

1. The Commission approves the Global Expedited Package Services 3 negotiated service agreement, as modified.
2. The Postal Service shall notify the Commission if the Existing Agreement, as modified, terminates prior to the scheduled expiration date.

By the Commission.

Stacy L. Ruble
Secretary

⁵ See Order No. 2745 at 2; see *also* Order No. 3040 at 2. Should both parties agree to renew the agreement, any such renewal is required to follow the requirements of 39 U.S.C. § 3633 and the Commission's implementing regulations of 39 C.F.R. part 3015.